HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO:8860 of 2000

Dated: 26-09-2007

Between:
K.Peda Laxmaiah
And others.

..... Peti

AND

The District Collector,
Khammam,
and others.

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Counsel for the petitioners : Sri R.Kameshwar Rao.

Counsel for the respondents : - none -

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O R D E R:

This writ petition is filed for a writ of mandamus to declare that the orders passed by the Joint Collector, Khammam in proceedings No.B4/7473/92 and B4/7474/92 dated 20.4.1993 in C.M.A.No.2 of 1994 are binding on the respondents and to declare the orders passed by respondent No.2 dated 7.5.2000, as illegal. Petitioners also sought for a direction not to interfere with the possession and enjoyment of their land in survey No.203 to the extent of Ac.56.36 gts., in Sompalli village, Burgampad Mandal of Khammam District.

In the affidavit filed in support of the writ petition, the petitioners pleaded that their ancestors were granted assignments in respect of Ac.24.30 guntas of land situated in survey No.203 of Sompally village, before 1955; that as one K.Appaiah and Ahmed Jani took their land on lease and did not allow the petitioners to enter into their lands, they approached the Joint Collector and that the Joint Collector, Khammam passed orders on 20.4.1993 in favour of the petitioners. It is further stated that in the said order, the Joint Collector, Khammam traced history of the rights over the said land and held that the ancestors of the petitioners were granted assignments. It is further stated that in pursuance of the said order, the possession of the lands were handed over to the petitioners under a panchanama in September 1993.

The petitioners further averred that adjacent to the said extent of Ac.34.20 guntas of land there exists an extent of Ac.22.16 gts., of land and that the said land belongs to the Government and that the petitioners raised mango garden on the said land. When the Mandal Revenue Officer, Burgampad proposed to auction the mango yield by issuing a notice dated 21.1.1994, the petitioners filed an appeal

before the Revenue Divisional Officer and he passed an order on 30.7.1994 directing the Mandal Revenue Officer not to dispossess them as they are small farmers. When the Mandal Revenue Officer sought to dispossess the petitioners in the year 1997, the petitioners filed W.P.No.8513 of 1997 and this Court by an order dated 28.4.1997 directed that they shall not be dispossessed from the land. It is further alleged that when the petitioners harvested the mango garden and loaded the same in a lorry for transportation to market on 5.5.2000, the same was intercepted by the Inspector of Police, Paloncha and the Mandal Revenue Officer, Burgampahad had taken the same into his custody. According to the petitioners no reasons were given for taking such action. The petitioners therefore, filed the present writ petition.

In the counter affidavit filed by Sri M.V.Ravindranath, Mandal Revenue Officer, Burgampad, it is stated that the extent of Ac.22.16 gts., of land is admittedly the Government land and when the mango garden was proposed to be auctioned, the Revenue Divisional Officer in the appeal filed by the petitioners directed the Mandal Revenue Officer not to dispossess the petitioners on the ground that they are small farmers. It is further stated that respondent No.2 i.e., the Project Director, ITDA, Bhadrachalam passed orders in proceedings No.A2/ITDA/1073/99 dated 22.5.1999 wherein he apportioned 50% yield covering the area of Ac.22.16 guntas of land to be distributed to the tribals of the area and the rest of the 50% of the produce to be sold under auction until the proceedings under Section 145 Cr.P.C., initiated are finally decided. It is also stated that there was no attempt to evict the petitioners from the land in dispute and that subsequently the 50% yield was also distributed to the tribals and the balance amount of Rs.75,000/- was distributed to the petitioners.

In the light of the relief sought for in the writ petition and having regard to the stand taken in the counter affidavit, there is no need for this Court to go into the issue whether the petitioners are entitled to the entire yield of the mango garden raised over an extent of Ac.22.16 gts of land which admittedly belongs to the Government. The petitioners have not sought for a specific relief that the value of the mango

garden, which was taken away by respondent No.3, should be paid to the petitioners. The petitioners have not controverted the allegations contained in the counter affidavit wherein it is specifically mentioned that respondent No.2 passed an order on 22.5.1999 apportioning the 50% of the yield in favour of the tribals. Learned counsel for the petitioners contended that no such order is communicated to the petitioners. In the absence of any reply affidavit filed specifically controverting these allegations, the submissions of the learned counsel at the bar cannot be accepted. If the petitioners are aggrieved by the order dated 22.5.1999, it is open to them to question the said proceedings. In any event, in view of the submission made by the Mandal Revenue Officer in his counter affidavit that they are not seeking to dispossess the petitioners from the land of Ac.22.16 gts., no specific relief need be granted in favour of the petitioners. However, as and when the respondents seek to interfere with the petitioners' possession of the said land, they are given liberty to avail appropriate remedy.

Subject to the above observation, the writ petition is disposed of. No order as to costs.

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C.V.NAGARJUNA REDDY,J

Date:26.09.2007
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